

May 25, 2012

**VIA ELECTRONIC FILING**

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: WC Docket No. 11-42 - Lifeline and Link Up Reform and Modernization  
WC Docket No. 03-109 - Lifeline and Link Up  
CC Docket No. 96-45 - Federal-State Joint Board on Universal Service  
WC Docket No. 12-23 - Advancing Broadband Availability Through  
Digital Literacy Training

**NOTICE OF EX PARTE PRESENTATION**

Dear Ms. Dortch:

On May 24, 2012, F.J. Pollak, President and Chief Executive Officer, TracFone Wireless, Inc. ("TracFone"), Javier Rosado, Senior Vice President - Lifeline Services, TracFone, Charles Shipp of SC Partners, and undersigned counsel on behalf of TracFone, met with Commissioner Robert M. McDowell and with Commissioner McDowell's Policy Director and Wireline Counsel, Christine Kurth. During the meeting we discussed certain issues before the Commission in the reconsideration phase of the above-captioned Lifeline Reform and Modernization proceeding.

Specifically, we discussed the requirement that, commencing June 1, 2012, applicants for Lifeline-supported service in states which do not allow Eligible Telecommunications Carriers ("ETCs") to access state program-based eligibility databases must produce documentation that they are enrolled in qualifying programs. Consistent with prior filings in this proceeding, including TracFone's petition for reconsideration, we explained why this requirement, commonly referred to as "full certification," would do little to prevent enrollment in Lifeline programs by persons not qualified for Lifeline support. However, the requirement will create significant barriers which would prevent thousands of qualified low-income households from completing the enrollment process and receiving Lifeline benefits. In addition, we explained that if the full certification requirement is not reconsidered, then its implementation should be postponed for one year to afford Lifeline providers and state governments reasonable periods to enter into suitable arrangements which would allow for access to state databases for the limited purpose of verifying consumers' Lifeline eligibility. In this regard, we explained that TracFone has been working with state governments for the purpose of establishing such arrangements. Significant progress is being made. However, this process will take many months to complete and those arrangements will not be in place on June 1, 2012.

We further explained that concerns about the impact of the June 1 "full certification" requirement on low-income households was raised by others, including Members of Congress and consumer advocacy groups. Of particular significance, such concerns have been articulated in a blog posted by former Commissioner, Deborah Taylor Tate. As discussed with



Commissioner McDowell and Ms. Kurth, on May 24, 2012, Commissioner Tate posted a blog on the Free State Foundation website entitled "What Is So difficult About Sharing A Database?" Calling the impending full certification requirement "problematic," Commissioner Tate suggests that full certification be postponed until after a federal database is in operation. Commissioner Tate also notes that there is "evidence that in states currently requiring 'full certification,' many low-income consumers who are intended beneficiaries of the Lifeline program never complete the process." Her observation about that evidence is especially compelling since nowhere in the Lifeline Reform Order does the Commission either acknowledge that evidence or identify any contradictory evidence on the record which supports the Commission's June 1 full certification implementation date. Commissioner Tate's posted blog raises serious and important questions regarding the wisdom of the requirement that full certification commence on June 1, 2012 in all states where access to state databases is not yet available. A copy of Commissioner Tate's blog is enclosed herewith for inclusion in the record of this proceeding.

We also discussed TracFone's request on reconsideration that the definition of usage for purposes of the de-enrollment for non-usage rule codified at 47 C.F.R. 54.407(c) be modified to include receipt of additional minutes and SMS text messaging. We explained that TracFone requires that its Lifeline customers have their handsets charged and turned on so that each month's allotment of additional Lifeline-supported minutes can be received. Charging the phones and having them turned on are overt acts which signify customers' intent to continue to participate in Lifeline. We also described the reasons why SMS text messaging should be considered usage for Lifeline de-enrollment purposes irrespective of whether SMS text messaging is a Universal Service Fund-supported service. For many Lifeline customers, as well as for non-Lifeline customers, SMS text messaging is used as a real time communications alternative to voice telephone calls. In addition, for thousands of hearing-impaired customers, many of whom are Lifeline customers, SMS text messaging is the most practicable, efficient means for engaging in telephonic communications, both with other hearing-impaired persons and with non-hearing-impaired persons.

Finally, we discussed TracFone's petition for declaratory ruling or, in the alternative, for waiver of Section 54.410(f) of the Commission's rules. That rule requires that all enrolled Lifeline customers re-certify their eligibility between June 1, 2012 and December 31, 2012. TracFone has already sent re-certification notices in calendar year 2012 to more than one million enrolled customers, and has de-enrolled about 270,000 of those customers, primarily for failure to respond. It would be burdensome and annoying to those customers who did respond to those requests in 2012 to receive another re-certification request within months -- in some cases, within days or weeks, of their prior response, and to risk de-enrollment if they fail to respond to a second re-certification request within months or weeks of responding to the first request. Moreover, unlike other ETCs, TracFone has always required all of its enrolled customer base to re-certify annually that they are head of household and receive Lifeline service only from TracFone. In short, TracFone has imposed on its customers a "one-per-household" rule since the inception of its Lifeline service in 2008 and all customers have been required to re-certify annually that they are in compliance with that requirement. Similarly, new Lifeline customers who enroll in TracFone's Lifeline program between April 1, 2012 and June 1, 2012 should not be required to re-certify their continuing eligibility for Lifeline prior to the one year anniversary of their enrollment.

Ms. Marlene H. Dortch  
May 25, 2012  
Page 3

In addition to Commissioner Tate's blog, we provided Commissioner McDowell and Ms. Kurth with a written presentation and with letters filed by Members of Congress in support of postponing the full certification requirement. Copies of the presentation and the letters are enclosed herewith.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically. If there are questions, please communicate directly with undersigned counsel for TracFone.

Sincerely,



Mitchell F. Brecher

Enclosures

cc: Hon. Robert M. McDowell  
Ms. Christine Kurth

# Enclosures

[Share](#) [Report Abuse](#) [Next Blog»](#)
[Create Blog](#) [Sign In](#)

# THE FREE STATE FOUNDATION

A Free Market Think Tank for Maryland.....Because Ideas Matter

Thursday, May 24, 2012

## What Is So Difficult About Sharing A Database?

by Deborah Taylor Tate

Access to voice services is important. Lifeline is a federal program for ensuring that low-income consumers have the same access we all do. This is one of the few federal programs that is transparent and targeted directly to low-income users themselves. These features distinguish Lifeline from other, more opaque Universal Service Fund (USF) programs that annually transfer billions of dollars in indirect subsidies to voice carriers for the ostensible purpose of providing service in high-cost areas – often where there are multiple carriers who *don't* receive this subsidy.

The FCC is now in the process of reforming USF. Those long-overdue reforms include transitioning USF from voice services to broadband, using market mechanisms to limit and discipline subsidies, and cutting waste, fraud, and abuse. All of which, as a former FCC Commissioner, I applaud, but, more importantly, as a contributing taxpayer.

The FCC is already taking several important steps to make Lifeline more efficient by curbing waste, fraud, and abuse. For instance, in its February [Lifeline Report & Order](#), the FCC limited Lifeline subsidies to one per-household. By the end of 2013, the FCC plans to establish a nationwide accountability database. This will enable carriers participating in the Lifeline program to check for and prevent multiple carriers from being reimbursed for serving the same low-income consumers. Also, a nationwide eligibility database under consideration by the FCC would enable carriers to ensure that low-end consumer applicants satisfy Lifeline's low-income criteria. These Lifelines reforms are welcome.

Unfortunately, the FCC is about to implement other administrative requirements that could potentially cut thousands of eligible low-income consumers off from Lifeline.

Starting in June the FCC will require carriers enrolling low-income consumers in Lifeline to access available state or federal social services eligibility



### Search This Blog

### Share it

[f](#) [Share this on Facebook](#)

[t](#) [Tweet this](#)

[View stats](#)

[\(NEW\) Appointment gadget >>](#)

### Subscribe To

[Posts](#) ▼

[Comments](#) ▼

### The Free State Found

P. O. Box 60680  
Potomac, MD 20859  
301-984-8253

[info@freestatefoundation.org](mailto:info@freestatefoundation.org)  
<http://www.freestatefoundation.org/>



databases to verify eligibility. Otherwise, carriers must themselves review consumers' documentation to verify eligibility.

This new administrative requirement for so-called "full certification" is problematic. Many states do not have accessible databases or workable arrangements in place with carriers to conduct such verification. At the very least, a reasonable postponement – perhaps a year's time – of the state database access requirement is necessary to allow states and carriers to work out the implementation details.

Moreover, tying Lifeline eligibility to state database access *now* overly-complicates the verification process; precisely the opposite result the reform intended. The FCC is looking to establish a federal eligibility database, which would effectively make its requirement of accessing state databases a temporary measure until the federal database is set up. As an administrative matter, the simpler approach is to implement any future "full certification" or verification process **after** a federal database is in operation.

There is evidence that in states currently requiring "full certification," many low-income consumers who are intended beneficiaries of the Lifeline program never complete the process.

Carriers like TracFone have had to deny enrollment – or worse – stop the service to thousands of Lifeline applicants even though consumers disclose their full name, address, date of birth, and the last four digits of their social security number. The FCC should permit this kind of simpler verification process to continue as it works to ensure eligibility. In addition, there are conversations with other federal agencies who already have established databases for other federal low income services, such as the Department of Agriculture-ASID (food stamps), DOE (school lunch programs) and HHS (healthcare). It seems that this might be a terrific and efficient intra-governmental solution: sharing all these various eligibility databases – already in existence.

Recently, the USF reforms being implemented by the FCC have undergone attack from certain members of Congress and others who want to preserve the outdated, analog-era, rate-of-return regulation and subsidy system that has benefited voice carriers. A strong Lifeline program should be helpful to reform-minded members of Congress and the FCC in resisting entreaties to walk away from these needed reforms. With USF high-cost fund subsidies to carriers exceeding \$4 billion in the year 2010 alone, and consumers now paying a [USF surcharge or "tax" of 17.4%](#) on the long-distance portion of their bills to pay for those subsidies, USF reform remains imperative.

In launching its long-term USF reforms last year, the FCC sought to avoid "flash cuts" in indirect subsidies to carriers. Hopefully, a reformed Lifeline regime will one day become the exclusive mechanism for ensuring universal service and replace opaque, indirect subsidies to carriers. To this end, reforms that avoid quick "flash cuts" in services to low-income consumers who might get lost in paperwork and processing are more important.

## Blog Archive

▼ 2012 (48)

▼ May (7)

[What Is So Difficult About Sharing A Database?](#)

[Internet Freedom, and Abroad](#)

[Use More, Pay More](#)

[My WSJ Opinion Live Interview](#)

[Propelling the Internet Backwards in Time](#)

[Just Downright Flipping Viola and the Congress](#)

[Maintaining a Lifeline Net](#)

► April (8)

► March (11)

► February (11)

► January (11)

► 2011 (107)

► 2010 (97)

► 2009 (65)

► 2008 (43)

► 2007 (56)

► 2006 (47)

## Links

[Atlas Economic Research Foundation](#)

[Free State Foundation](#)

[Google News](#)

But rather than risk access to thousands of low-income consumers by tying Lifeline eligibility to a haphazard and perhaps temporary state database process, the FCC should permit simpler self-certification processes, implement its other Lifeline efficiency reforms, and focus on building a national eligibility database.

At the very least, the FCC should postpone its deadline to more time for states, other federal agencies, and carriers to work out efficient arrangements for sharing information and certifying eligible low-income consumers, rather than building yet another bureaucracy under the name of "reform."

Posted by kbaker at [9:13 AM](#) 

[Recommend this on Google](#)

Labels: [Deborah Taylor Tate](#), [FCC](#), [Free State Foundation](#), [Lifeline](#), [Randolph J. May](#), [USF](#)

[Home](#)

[Older Post](#)

[Heritage Foundation](#)

[InfoTech & Telecom New](#)

[Manhattan Institute](#)

[PFF Blog](#)

[State Policy Network](#)

[Tech Liberation Front](#)

[Technorati](#)

**copyright and trademark  
rights reserved.**

**A Free Market Think Tank for  
Maryland.....Because Ideas  
Matters and FSF are registered  
trademarks.**





TRACFONE WIRELESS, INC.

LIFELINE AND LINK UP REFORM AND  
MODERNIZATION  
WC DOCKET NO. 11-42

FCC Meetings  
May 23<sup>rd</sup> & 24<sup>th</sup>, 2012

# Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

---

- Access to Lifeline eligibility databases is the most reliable, efficient way to prevent enrollment in Lifeline by persons not qualified to receive Lifeline benefits.

## Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

---

- The sooner access to such databases is available (whether state or federal), the better it will be for the Lifeline program and for the intended beneficiaries of the program -- low-income households.

# Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

---

- Requiring applicants to produce documentation of program-based eligibility (so-called “Full Certification”) will cause a sharp decline in enrollments.



# Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

---

- TracFone knows from experience that in full certification states (there are only 7) the percent of consumers who complete the enrollment process drops from more than 70% to around 30%.
- Reasons:
  - 1) documentation not available;
  - 2) no means to deliver documents to ETCs (no access to fax machines, scanners, copiers, computers, etc.)

## Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

---

- No basis for FCC conclusion that full certification will reduce enrollment by non-qualified persons.

# Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

---

- Focus should be on access to state databases and development of a national database.
- TracFone has been working with state departments and agencies to arrange for such access.
- Progress is being made (for example, South Carolina will make database access available soon; other states will take longer).
- Those arrangements take time and cannot be completed by June 1.
- States should be given more time before full certification is required.

# Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

---

- Better Solution: Existing requirement that all Lifeline applicants to provide information to verify their identities, including:
  - Full name
  - Residential address
  - Date of birth
  - Social Security No. (last 4 digits)
- Requiring that information enables ETCs to confirm their applicants’ identities and significantly reduces fraudulent enrollment



## Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

---

- Members of Congress and state regulators share TracFone’s concern (see letters from Senator Kerry, 31 Members of the House of Representatives, and the Georgia Public Service Commission) So too do minority rights advocates such as the Rainbow Coalition, and consumer advocates.

## Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

---

- Full certification requirement should be reconsidered; or at least postponed for a year to afford the industry and the states a fair opportunity to reach agreement on the terms of access to state eligibility databases.

# Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

---

- Four months from issuance of Lifeline Reform Order insufficient time for the states and ETCs to implement full certification.
  - ETCs must change internal operating systems (web, IVR, etc).
  - States must address database access and develop suitable arrangements to allow ETCs access in a manner which limits access to verifying Lifeline eligibility and which protects privacy rights.

# Broaden Definition of Usage for Purposes De-Enrollment for Non-Usage

---

- Usage Definition Should be Broadened to Include:
  - Receipt of monthly minutes
  - Sending or receiving SMS text messages
- Usage currently includes:
  - Sending and receiving calls
  - Purchasing additional minutes
  - Responding to direct inquiries from ETCs
- Receipt of additional minutes
  - Customers must take an overt act which indicates an intent to use the service --
    - Charging the phone
    - Turning the phone “on”
    - Dialing a code (e.g., 555) to receive minutes
- Texting
  - For many consumers (especially younger consumers) SMS texting is how they use the phone for real time conversations; Texting is a substitute for voice calling.
  - For hearing-impaired, texting is the most convenient way to use their phones to communicate with others.
- The fact that texting is not a “supported service” should not be significant since texting is permitted for other aspects of Lifeline, *e.g.*, to verify continuing eligibility.



# 2012 Annual Re-Certification of Eligibility

---

- All Lifeline customers should be re-certified annually, but not twice in the same year.
- Lifeline customers who re-verified their Lifeline eligibility in between January and June 2012 should not have to re-verify until one year later.
  - Customers who do not respond to verification requests are de-enrolled; it is unfair for a customer who responded in (for example) March to be de-enrolled if the customer does not respond to another request a month later, or any time during the same calendar year.
  - For all 2012, TracFone customers are provided with substantially all information required by FCC's rules.
  - Already subject to one-per-household requirement.
  - Re-certifying customers twice in one year is unnecessary and wasteful, especially for companies like TracFone, who since becoming ETCs, have re-certified all of their customers annually, not just a random sample of their customers.
  - TracFone already re-certifies all of its customer—not just a random sample.
- Customers who enroll in Lifeline during 2012, but before June 1 2012, should not have to re-certify their eligibility until one year after the date of their enrollment.
- In 2012, TracFone already has contacted 1 million customers to re-certify. Of those, 270,000 de-enrolled.

# United States Senate

WASHINGTON, DC 20510

March 26, 2012

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Genachowski:

I am writing to commend you on the Commission's recent adoption of rules to modernize the federal Lifeline program and to request a modification in the final order.

The Lifeline program has historically made access to the public telecommunications networks affordable for our neediest citizens. The ability to access healthcare providers, potential and current employers, police and other emergency services and to contact and be contacted by family and friends is critically important to all citizens, particularly those of modest means.

I applaud the many important reforms to the Lifeline program you have approved, including the changes that will enable participating carriers to identify and prevent waste, fraud, and abuse of limited Universal Service Fund resources. The revised verification requirements, non-usage de-enrollment rules, and the establishment of data bases to detect and prevent duplicate Lifeline enrollment will ensure that only qualified persons receive Lifeline benefits to which they are entitled and will protect the resources of the Fund.

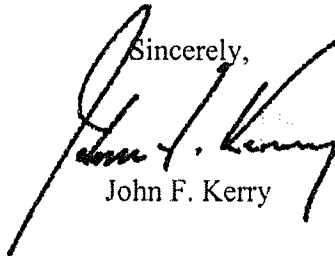
There is, however, one reform that I am asking the FCC to reconsider and modify. I am concerned about the requirement that applicants for Lifeline service produce documentation of their enrollment in Lifeline-qualifying programs such as Medicaid, the Supplemental Nutritional Assistance Program, or the Low Income Home Energy Assistance Program if they reside in states which do not yet allow Lifeline providers to access state program databases. I realize that some states already allow access to such databases and that the Commission is proposing that a national eligibility database be available by year end 2013. However, for the next one to two years, many eligible low income consumers will be unable to enroll in Lifeline as a result of this proposed requirement.

Massachusetts does not currently require consumers to produce such documentation. However, I understand that in the several states which do require such documentation to be provided, far fewer *qualified* needy households enroll in Lifeline than in other states. This is understandable and not surprising. Not only is such documentation often not readily available, even where the documents are in the possession of the Lifeline applicant, without access to copy machines, fax machines, scanners, and Internet access computers, there is no practical way to submit the documentation.

The Honorable Julius Genachowski  
March 26, 2012  
Page 2

With a real solution -- a national eligibility database -- on the horizon, I urge you to postpone implementation of this burdensome requirement for at least one year so that states and providers can work together to enter into arrangements to enable the providers to use state data bases for the limited purpose of determining consumers' eligibility for Lifeline support going forward.

Thank you for your consideration.

Sincerely,  
  
John F. Kerry

Cc: The Honorable Robert McDowell

The Honorable Mignon Clyburn

**Congress of the United States**  
**Washington, DC 20515**

April 23, 2012

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554

Dear Chairman Genachowski:

As Members of Congress who strongly support the Federal Communications Commission's (FCC) efforts to reform and strengthen the Universal Service Fund's Lifeline program, we write to express our view regarding the specific rulemaking actions approved on January 31, 2012. Specifically, we are concerned with the relatively short timeframe that the FCC has imposed for the implementation of "full certification", the requirement that consumers produce documentation of their participation in Lifeline-qualifying programs. Therefore, we request that the FCC allow service providers until January 2013 to implement the full certification rule.

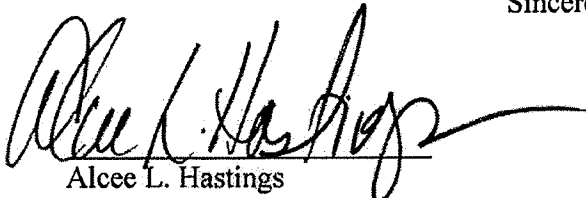
We have closely monitored the Lifeline rulemaking process since it was first announced in November 2010, and are pleased that the FCC shares in our vision of a program that is accessible to qualifying consumers as well as free of waste, fraud, and abuse. While we remain concerned that the full certification requirement may have unintended consequences on Lifeline enrollment and access, we understand the rationale behind this particular rule. Moving forward, we simply ask that service providers be given additional time to prepare for the implementation of full certification.


Currently, many states do not have eligibility databases in place to ensure that enrollees qualify for, and are in true need of, Lifeline services. If full certification is implemented in these states, we fear that current and prospective Lifeline subscribers may lose vital access to telephone service. It is our understanding that this rule is scheduled to go into full effect on June 1<sup>st</sup>. Extending this deadline by seven months to January 2013 will allow carriers to work with state governments and establish databases that can be used to determine eligibility for Lifeline.

As you well know, Lifeline is of great importance to our most economically disadvantaged constituents, who would otherwise be unable to afford basic telephone service. Great strides have been made under your leadership to modernize the program and to make it more accessible to those in need. We are confident that the FCC's reforms will go a long way to make Lifeline stronger and more effective.


Chairman Genachowski, thank you for your consideration of our request to extend the implementation deadline for full certification until January 2013. We appreciate your continued commitment to meeting the communications needs of low-income Americans, and stand ready to assist you as the FCC implements much-needed reforms to Lifeline. If you should have any questions, please do not hesitate to contact us.


Sincerely,


  
Alcee L. Hastings  
Member of Congress

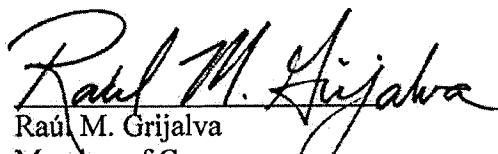
  
Silvestre Reyes  
Member of Congress


  
Wm. Lacy Clay  
Member of Congress


  
Charles B. Rangel  
Member of Congress

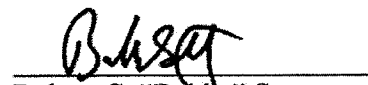
  
Edolphus Towns  
Member of Congress

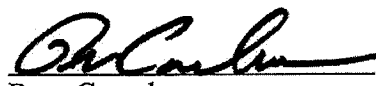
  
Ted Deutch  
Member of Congress

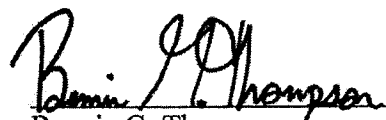
  
Raúl M. Grijalva  
Member of Congress

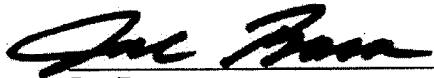
  
Barbara Lee  
Member of Congress

  
Ed Pastor  
Member of Congress

  
Robert C. "Bobby" Scott  
Member of Congress

  
Russ Carnahan  
Member of Congress

  
Bennie G. Thompson  
Member of Congress



Joe Baca  
Member of Congress



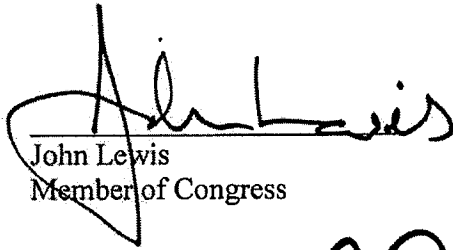
Ben Ray Luján  
Member of Congress



Larry Kissell  
Member of Congress



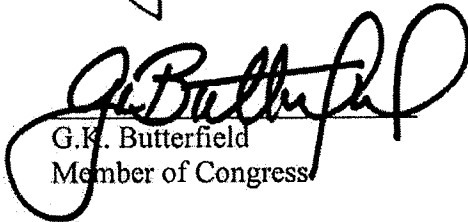
Grace F. Napolitano  
Member of Congress



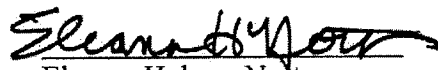
John Lewis  
Member of Congress



Albio Sires  
Member of Congress



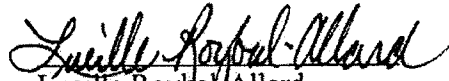
G.K. Butterfield  
Member of Congress



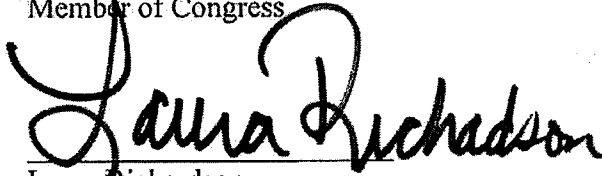
Eleanor Holmes Norton  
Member of Congress



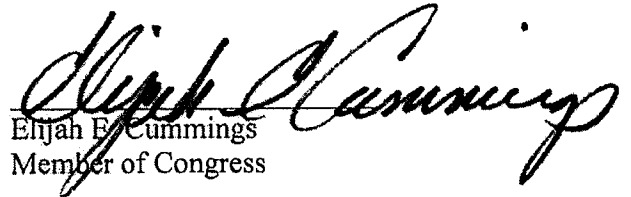
Luis V. Gutierrez  
Member of Congress



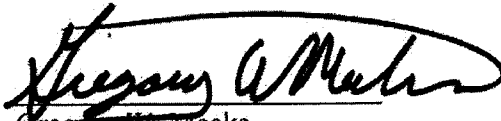
Lucille Roybal-Allard  
Member of Congress



Laura Richardson  
Member of Congress



Elijah E. Cummings  
Member of Congress



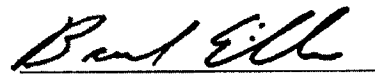
Gregory W. Meeks  
Member of Congress



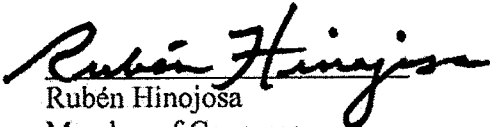
Pedro R. Pierluisi  
Member of Congress

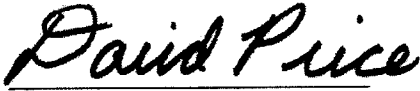



Keith Ellison  
Member of Congress



Brad Miller  
Member of Congress

  
Rubén Hinojosa  
Member of Congress

  
David Price  
Member of Congress

  
Melvin L. Watt  
Member of Congress